

Local Government Exemption from Solid Waste Laws for Acquisition of Specific Landfills

SECTION 3244. 292.23 of the statutes is created to read:

292.23 Responsibility of local governmental units; solid waste. (1)

DEFINITION. In this section, “local governmental unit” means a municipality, a redevelopment authority created under s. 66.1333, a public body designated by a municipality under s. 66.1337 (4), a community development authority, or a housing authority.

(2) EXEMPTION FROM LIABILITY. Except as provided in sub. (3), a local governmental unit is exempt from s. 289.05, and rules promulgated under that section, with respect to property acquired by the local governmental unit before, on, or after the effective date of this subsection [revisor inserts date], if any of the following applies:

- (a) The local governmental unit acquired the property through tax delinquency proceedings or as the result of an order by a bankruptcy court.
- (b) The local governmental unit acquired the property from a local governmental unit that is exempt under this subsection with respect to the property.
- (c) The local governmental unit acquired the property through a condemnation or other proceeding under ch. 32.
- (d) The local governmental unit acquired the property for the purpose of slum clearance or blight elimination.
- (e) The local governmental unit acquired the property through escheat.
- (f) The local governmental unit acquired the property using funds appropriated under s. 20.866 (2) (ta) or (tz).

(3) EXCEPTIONS. (a) Subsection (2) does not apply with respect to a discharge of a hazardous substance caused by any of the following:

- 1. An action taken by the local governmental unit.
- 2. A failure of the local governmental unit to take appropriate action to restrict access to the property in order to minimize costs or damages that may result from unauthorized persons entering the property.
- 3. A failure of the local governmental unit to sample and analyze unidentified substances in containers stored aboveground on the property.
- 4. A failure of the local governmental unit to remove and properly dispose of, or to place in a different container and properly store, any hazardous substance stored aboveground on the property in a container that is leaking or is likely to leak.

(b) Subsection (2) does not apply if, after considering the intended development and use of the property, the department determines that action is necessary to reduce to acceptable levels any substantial threat to public health or safety when the property is developed or put to that intended use, the department directs the local governmental unit to take that necessary action, and the local governmental unit does not take that action as directed.

(c) Subsection (2) only applies if the local governmental unit agrees to allow the

department, any authorized representatives of the department, any party that possessed or controlled a hazardous substance that was discharged or caused the discharge of a hazardous substance, and any consultant or contractor of such a party to enter the property to take action to respond to the discharge.

(d) Subsection (2) does not apply to property described in sub. (2) (f) unless the local governmental unit enters into an agreement with the department to ensure that the conditions in pars. (a) and (b) are satisfied.

(e) Subsection (2) does not apply to any solid waste facility, as defined in s. 289.01 (35), that was operated by the local governmental unit or was owned by the local governmental unit while it was operated, to a municipal waste landfill, as defined in s. 289.01 (22), or to an approved facility.